

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SCOTT O'ROURKE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:16-cv-1795-AGF
)	
DAVID KING, <i>et al.</i> ,)	
)	
Defendants.)	

**PLAINTIFF'S RENEWED MOTION TO COMPEL DISCOVERY RESPONSES, FOR
SANCTIONS, AND FOR AN EXTENSION OF TIME TO RESPOND TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Scott O'Rourke, pursuant to Rules 37(a) and (b)(2) of the Federal Rules of Civil Procedure and Local Rule 37 – 3.04, hereby respectfully requests this Court enter an order (1) compelling Defendants to comply with their discovery obligations and this Court's previous Order (ECF No. 48) to provide responses to Plaintiff's Requests for Production; (2) sanctioning Defendants and/or their counsel; and (3) granting Plaintiff an extension of time to respond to Defendants' Motion for Summary Judgment. In support of this motion, Plaintiff states as follows:

1. On December 22, 2017, this honorable Court granted Plaintiff's Motion to Compel in part, holding that "the Court believes that the discovery requests are relevant to Plaintiff's municipal liability claim and within the scope of discovery" and ordering Defendants and their counsel to produce the SLMPD's documents as requested in the Motion to Compel by January 5, 2018 "or if all such documents have been produced, to produce a letter to Plaintiff certifying that fact." *See* Order granting in part Motion to Compel, ECF No. 48 at 2.

2. On January 5, 2018 Defendants' counsel failed to produce any documents whatsoever, and instead emailed Plaintiff's counsel saying Defendants "do not have additional

documents in their possession that are responsive to the discovery requests at issue in Plaintiff's Motion to Compel," despite knowing that the requested materials are readily available to the Defendants and the SLMPD.

3. This repeated refusal by Defendants and their counsel to participate in discovery and to obey this Court's orders has caused Plaintiff O'Rourke undue prejudice, in that the unproduced materials are relevant to O'Rourke's claims for municipal liability presently at issue in Defendants' Motion for Summary Judgment and accompanying memoranda. *See* ECF Nos. 45-47. Plaintiff will require additional time to respond to these Motions for Summary Judgment unless and until Defendants produce the requested documents.

4. Thus, sanctions are warranted and indeed necessary to force Defendants and their counsel to comply with the Court's order and their discovery obligations, and to remediate the prejudice their misconduct has caused to Plaintiff O'Rourke.

5. For these reasons, as well as those more fully articulated in Plaintiff's accompanying Memorandum in Support (incorporated by this reference as if fully stated herein), this Court should grant Plaintiff's instant Motion.

WHEREFORE, based on the foregoing, Plaintiff Scott O'Rourke respectfully requests this Court enter an order (1) compelling Defendants to comply with their discovery obligations and this Court's previous Order (ECF No. 48) to provide responses to Plaintiff's Requests for Production; (2) sanctioning Defendants and/or their counsel to reimburse Plaintiff's reasonable attorneys' fees; (3) granting Plaintiff an extension of time of at least 30 days to respond to Defendant's Motion for Summary Judgment; and (4) for any additional sanctions or other form of relief this Court deems just and proper under the circumstances.

Dated: January 6, 2017

Respectfully submitted,

ARCHCITY DEFENDERS, INC.

By: /s/ Nathaniel R. Carroll

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Deposition was served upon all parties of record at the following addresses by electronic mail on this 6th day of January, 2018:

Henry “Bud” Luepke

Missouri Attorney General’s Office

VIA EMAIL: bud.luepke@ago.mo.gov

Attorney for Defendants

/s/ Nathaniel R. Carroll